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Minerals Management Service
Royalty Management Program
Rules and Procedures Staff
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COMMENTS ON PROPOSED REGULATIONS-AMENDMENTS TO GAS VALUATION REGULATIONS FOR FEDERAL LEASES

The Council of Petroleum Accountants (COPAS) appreciates the opportunity to comment on the MMS-proposed rulemaking governing natural gas produced from Federal leases. COPAS members have extensive experience with Royalty Management Program (RMP) rules and handle royalty valuation, allowance filings, OCS refund requests, adjustments, bills, audits and other royalty matters on a regular basis. Therefore, we believe our comments will be beneficial in improving RMP processes for both the MMS and industry. The proposed regulations referenced in the forthcoming comments appear in the November 6, 1995 Federal Register, pages 56007-56033.

COPAS appreciates the opportunity to serve on the Federal Gas Valuation Negotiated Rulemaking Committee (Committee) and commends the Committee on coming to consensus on this very difficult subject. In the current economic environment affecting the domestic petroleum industry, this rule simplifying the current process, recognizing the changes in the natural gas industry, and eliminating waste is appreciated. The following comments are limited to changes recommended by the Committee to the current regulations and to those areas in which specific comments were requested.

Section 202.450

Section 202.450 (b)(1) contains a sentence that was not in the existing regulations and was not agreed to by the Committee. The sentence, "However, except as provided in §202.451(b), in no instances will any gas be approved for use royalty free downstream of the facility measurement point approved for the gas" appears to imply system and procedural changes for industry with no added benefit to the royalty recipients. COPAS therefore recommends this sentence be deleted.

For added simplicity, Section 202.450(d)(iv)(C)(3) should be moved to (1); (1) should be moved to (2); and (2) should be moved to (3). The best indicator of production not taken for a month should be that month's market value, if known, since it is representative of current market value and readily accessible. Only if no information is available for the month should the weighted average of the previous three months be used.

Section 202.452
COPAS recommends that the NGL volume reporting standards under Section 202.452(b)(3) be reviewed by the Royalty Reporting and Production Accounting Subcommittee of the Royalty Policy Committee for consistent and streamlined reporting. Any other reporting changes needed to comply with the final regulations should also be referred to this Subcommittee.

Section 206.452
COPAS supports each valuation methodology standing on its own, i.e. gross proceeds should not be compared to index and index should not be compared to their own gross proceeds.

Section 206.454
In order to clarify the language of Section 206.454(a)(2)(iii) and (iv) COPAS recommends changing the language in the middle of each paragraph to ". . . including any applicable transportation allowance under §206.457". The existing language seems to imply that the transportation allowance may only be applied to residue gas instead of transportation of all royalty-bearing products as intended.

The Committee did not consider or agree upon the issue of gas contract settlements and therefore, COPAS recommends that Section 206.454(a)(6) be deleted.

Since many properties are priced at a point other than the well, COPAS recommends that for clarity that the reference on page 18 of the Committee Report stating ". . . to which the well, lease, platform, central delivery point, or plant (collectively referred to as well). . ." be included in section 206.454(b) when discussing valuation at the well.

Comments were requested by the MMS on the appropriate consequences in the event MMS does not publish the final safety net within two years. In order to achieve certainty, if the MMS does not publish the final safety net within two years, no additional royalty should be due under section 206.454(e). COPAS believes the index represents market value and the safety net is an unnecessary additional burden, but recognizes that the MMS and states indicated a need for this calculation in order to ensure market value. COPAS recommends that the safety net calculation and benefits be reviewed 3 years after implementation of the rule to determine if the benefits exceed the costs.

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COPAS recommends that the MMS publish a more specific policy regarding the technical review in section 206.454(e)(7). The policy could cover such questions as what happens if a company doesn't participate in the review and the value is later modified and will all companies in a zone be notified of any change in value whether the value is determined to be higher or lower.

The percentage referenced in Section 206.454(e)(9)(ii)(B) should be 65% rather than 50% and the percentage referenced in Section 206.454(e)(10)(ii)(B) should be 30% rather than 50%. These percentages are properly stated in the preamble, but erroneously stated in the proposed rule.

Sections 206.454(e)(8), (9), and (10) state that the lessee must determine their weighted-average index-based value and pay any additional royalties due under the safety nets. Although the Committee Report (P.35) states that the MMS will do this calculation, COPAS endorses this change which will lessen MMS' administrative burden in calculating the safety net.

Since a payor will elect for two years to be an index payor or a proceeds payor, if a zone is changed under 206.454(g) or (h) within the two year period, the payor should be allowed to re-elect the methodology based on the new zone.

Section 206.456
The Committee used and defined the term "location differential". COPAS requests MMS' reasoning in changing the Committee references from "location differential" to "transportation allowance."

Sections 206.457 and 206.459
COPAS commends the Committee for eliminating transportation and processing allowance forms. As stated in COPAS' October 3, 1995 comments on the oil and gas transportation and process allowance proposed regulations "COPAS recommends that the filing of any and all transportation and processing allowance forms for both oil and gas be eliminated." The filing of allowance forms costs both the government and industry an inordinate amount of money, time and energy with minimal benefit.

Section 211.18(c)(3)
COPAS commends the Committee for the exception for operating rights owners to agree to pay on takes. COPAS requests that the MMS also include in the regulations the Committee recommendation (P.63 of Committee Report) for an exception for 100% Federal and no-agreement leases since the MMS requested the Committee's concurrence on these issues.

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Conclusion

COPAS appreciates the opportunity to offer comments regarding this proposed rulemaking and will be glad to meet with MMS personnel to discuss these comments. Please contact me at 405/767-5044 if you wish to discuss in more detail.

John E. Clark
Chairman, COPAS Federal Regulatory Affairs Subcommittee

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